

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/11/2004

CORAM

THE HON'BLE MR.JUSTICE V.KANAGARAJ

CRIMINAL REVISION CASE No.1814 OF 2004

Durai Kannu Naicker ... Petitioner

-Vs-

State, rep. by Inspector of Police
C-4, Thuraippakkam Police Station
Thuraippakkam
Chengalpattu East ... Respondent

Criminal Revision Case filed under Section 397 readwith 401 of the
Cr.P.C.

For petitioner : Mr.N.Mohideen Basha

For respondent : Mr.E.Raja,
Addl. Public Prosecutor

:O R D E R

The above Criminal Revision Case is filed against the order of
the learned Judicial Magistrate, Alandur in Crime No.1082/1997 dated 29.1
2.2000.

2. On a perusal of the materials placed on record and upon
hearing the learned counsel for both, it comes to be known that it is a case
which was originally registered by the respondent police for the commission of
offences under sections 420 and 406 IPC in Crime NO.1082/19 97. The
respondent having investigated into the said case has referred the same as
mistake of fact and has sent intimation to the Court wherein the FIR is
pending. The learned Judicial Magistrate, Alandur on such receipt of the
same, has passed an order on 29.12.2000 to the effect that "FIR is struck off
from the FIR Register as per the request of Inspector". It is only against
this remark offered in the order passed by the learned Judicial Magistrate,
Alandur, the petitioner has filed the above Criminal Revision Case on certain
grounds.

3. Though the police have got every right to file a referred
charge sheet, while filing the same, the police are supposed to issue notice
to the de facto complainant. The police have to file RCS along with

acknowledgment of the copy of RCS by the de facto complainant, so that, the complainant would also be in a position to file objection petition in the form of private complaint before the same Magistrate which is the right of the petitioner guaranteed under law. The petitioner's grievance is that the procedure adopted on the part of the police and the Judicial Magistrate as well are faulty in which the petitioner is not at all able to understand as to what happened in the case registered on his complaint and therefore, would testify the validity of the order passed by the learned Magistrate.

4. In the above circumstances, while remarking that the learned Magistrate and the police as well have adopted erroneous procedure in scraping the FIR which is not at all warranted, this Court is of the view that sufficient time shall be given to the petitioner to file his objections to the RCS filed on the part of the respondent police in the form of private

complaint. The learned Magistrate shall entertain and process the same so as to conduct the enquiry and decide the matter on merit and in accordance with law. Hence, the following order.

In result,

(i) The above Criminal Revision Case succeeds and the same is allowed.

(ii) The petitioner is permitted to send his objections in the form of private complaint to the RCS filed by the respondent police on the complaint of the petitioner regarding the case registered in crime No.1082 of 1997 on the file of the respondent police within a period of 30 days from the date of receipt of a copy of this order.

(iii) In such event, the Judicial Magistrate, Alandur shall entertain the said complaint and process the same in the manner required under law and conduct a thorough trial so as to deliver a judgment on merits and in accordance with law with due opportunities of parties to be heard.

18.11.2004.

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To

1. Inspector of Police
C-4, Thuraippakkam Police Station
Thuraippakkam
Chengalpattu East

2. Judicial Magistrate, Alandur

3. The Public Prosecutor,
Highs Court, Madras.

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